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In re application: Mersch, Gerhard
Serial No.: 09/931,489
Filed: 08/21/2001
Group Art Unit: 3634
Examiner: Redman, Jerry E.
For: DOOR MODULE FOR MOTOR VEHICLE DOORS

REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner For Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is responsive to the Examiner's Answer mailed March 14, 2006.

There are several points in the Examiner's Answer that are worth noting and Applicant discusses each of them here. Rather than restating any of Applicant's arguments from the opening brief, this reply is limited to only those portions of the Examiner's Answer requiring direct comment.

Notably, the Examiner does not explain how the references can be combined given the express teachings of the primary reference that establish why there is no benefit to making the proposed combination. Nowhere does the Answer contain any explanation for how the proposed modification is motivated by the teachings of either reference. There is no prima facie case of obviousness.

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The Examiner's statements made in section (10)A. on page 4 miss the point. The reason why Applicant has pointed out *Seeberger's* "wet and dry spaces/sides" is to show why there is no motivation to combine the references as proposed by the Examiner. The "wet and dry spaces/sides" arguments are purely directed to the proposed combination and do not in any way depend on or relate to the content of Applicant's claims. Instead, the point is that *Seeberger et al.* teaches that the drive control unit 9 of that reference is already mounted on the "dry space side" of the support plate 3 so that there is no reason or motivation to add a "cover" from the *Yamashita* reference. The Examiner actually admits this by acknowledging that the seal in *Seeberger et al.* forms a "dry environment."

The only motivation proposed by the Examiner (and not either reference) is to "prevent moisture from contacting the motor and electronics." What the Examiner seems to be overlooking is that *Seeberger et al.* have already addressed that problem and adding a piece of the *Yamashita* reference will not in any way enhance what *Seeberger et al.* have already accomplished. Without any benefit, there is no motivation and the combination cannot be made.

The Examiner's statements in Sections (10)B and C of his Answer are incorrect. Applicant respectfully disagrees with the conclusions that the plug in contacts "are engaged (directly or indirectly) to a system carrier and/or housing portion" and that the references "clearly disclose the electrically conductive elements coupled when the housing is secured." What the Examiner is overlooking here is that some of Applicant's claims recite an arrangement or method that includes making an electrically conductive connection between two parts as the housing is secured to the system carrier. In other words, the movement of the housing portion into the position relative to the system

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carrier is the same motion that makes the electrically conductive connection. *Seeberger et al.* do not show or suggest any contacts on the system carrier or on the housing portion. Further none of the alleged contacts in the *Seeberger* reference are “engaged in an electrically conductive manner when the first housing portion is secured to the portion of the system carrier.” Neither the *Seeberger* reference nor the *Yamashita* reference anywhere disclose or suggest cooperating contacts and plug-in contacts that are electrically engaged as a housing portion and a system carrier are secured together.

Section (10) D. of the Examiner’s Answer is wrong. The control electronics of the *Seeberger et al.* reference are not “completely enclosed.” Openings in the “upper lining body 5a are required for the switches 92 and 93 to protrude through and be accessible to a driver in the vehicle. Such openings do not allow the drive and control unit 9 of the *Seeberger et al.* reference to be completely enclosed.

The Examiner for the first time parenthetically suggests on page 4, lines 7-8 of the Answer that the upper lining 5a could be construed as a “first portion which encloses the control electronics.” That does not come from the reference and Applicant respectfully disagrees. There is no teaching in that reference of how the upper lining 5a is shaped to cooperate with the support to “completely enclose” anything. Simply putting one next to the other so that a portion of the drive and control unit 9 is “covered” on one side by the upper lining 5a, which is all that the reference teaches, is not the same thing as completely enclosing that unit.

If one were to add the piece of *Yamashita* suggested by the Examiner in an attempt to completely enclose the unit 9, that would render the switches unusable. Such a modification is not permissible when attempting to establish a *prima facie* case.

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None of the claims are obvious. The rejection under 35 U.S.C. §103 must be reversed.

Respectfully submitted,

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May 15, 2006

Date



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CERTIFICATE OF FACSIMILE

I hereby certify that this Reply Brief relative to Application Serial No. 09/931,489 is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on May 15, 2006.



Theresa M. Palmateer

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